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and THOMAS ENGEL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JESSE HELTON; ALISHA PICCIRILLO;  
CHAD LOWE; individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

FACTOR 5, INC.; FACTOR 5, LLC;  
BLUHARVEST, LLC; WHITEHARVEST,  
LLC; JULIAN EGGBRECHT; HOLGER  
SCHMIDT; THOMAS ENGEL; and DOES  
1-100,

Defendants.

Case No. 4:10-cv-4927 SBA

**STIPULATION AND ~~PROPOSED~~  
ORDER FOR SCHEDULING  
MATTERS RELATED TO PENDING  
MOTIONS**

Plaintiffs Jesse Helton, Alisha Piccirillo, and Chad Lowe ("Plaintiffs" ) and Defendants  
WhiteHarvest, LLC, Julian Eggebrecht, Holger Schmidt, and Thomas Engel (collectively

1 “Defendants”) hereby jointly apply, by way of stipulation, for an Order concerning a briefing  
2 schedule for (1) Defendants’ Motion for Summary Adjudication and related scheduling issues,  
3 and (2) Plaintiffs’ Motion for Collective Certification.

4 The individual Defendants’ filed their Motion for Summary Adjudication on October 20,  
5 2011. Defendant WhiteHarvest, LLC subsequently joined in the motion. The Motion for  
6 Summary Adjudication is scheduled for a hearing on March 6, 2012. Plaintiffs’ opposition to  
7 the motion is currently scheduled for January 9, 2012.

8 Due to scheduling conflicts, Plaintiffs will be unable to complete certain discovery prior  
9 to the current deadline for opposing the summary adjudication motion. Plaintiffs served the  
10 following:

- 11 • Deposition notice for Andrea Horn (November 18, 2011)
- 12 • Deposition subpoena for Summit State Bank (December 2, 2011)
- 13 • Deposition notice for Katja Reitemeyer (December 9, 2011)
- 14 • Deposition subpoena for Electronic Arts, Inc. (December 16, 2011)
- 15 • Deposition subpoena for Netflix, Inc. (December 19, 2011)

16 On October 31, 2011, Plaintiffs served written discovery requests to the individual  
17 Defendants. Counsel for the individual Defendants has indicated he was unaware of the  
18 discovery requests for December 8, 2011, and the individual Defendants have not yet responded  
19 to Plaintiffs’ discovery requests.

20 Counsel for the individual Defendants has indicated that he will be out of the country on  
21 vacation from December 20, 2011 until January 5, 2012.

22 Due to scheduling conflicts, the parties have been unable to complete the discovery  
23 (above) and do not anticipate resuming depositions before January 11, 2012.

24 On October 26, 2011, Plaintiffs filed a Motion for Conditional Certification of a  
25 Collective Action under the Fair Labor Standards Act (“FLSA”), with a hearing date of March  
26 20, 2012. On December 15, 2011, Defendants requested a briefing schedule to respond to this  
27 Motion.

28 It is hereby stipulated and agreed by and between the parties, through their respective

1. Current deadlines for Defendants' Motion for Summary Adjudication are vacated.
2. Opposition to Defendants' Motion for Summary Adjudication shall be filed and served no later than February 2, 2012.
3. Defendants' Reply in support of the Motion for Summary Adjudication shall be filed and served no later than February 16, 2012.
4. Defendants' Opposition to Plaintiffs' Motion for Conditional Collective FLSA Certification shall be filed no later than February 2, 2012.
5. Plaintiffs' Reply in support of the Motion for Conditional Collective FLSA Certification shall be filed no later than February 16, 2012.
6. The parties agree that this stipulation (including the proposed briefing schedule) does not waive Plaintiffs' ability to argue that Defendants' opposition to the Motion for Conditional Collective FLSA Certification is untimely.

The parties to this stipulation believe that good cause exists and agree to this briefing schedule.

**IT IS SO STIPULATED:**

Dated: December 23, 2011

**SMITH LILLIS PITHA LLP**

By: / s /  
JAMES SMITH

1 Dated: December 23, 2011

**BARTLETT, LEADER-PICONE & YOUNG**

2  
3 By:                     / s /                      
4 MALCOLM LEADER-PICONE

5  
6 Dated: December 23, 2011

**LAW OFFICES OF KEITH MCALLISTER**

7  
8 By:                     / s /                      
9 KEITH MCALLISTER

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12 **IT IS SO ORDERED**

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15 Dated: December 28, 2011

*Saundra B. Armstrong*  
16 SAUNDRA BROWN ARMSTRONG  
17 UNITED STATES DISTRICT JUDGE  
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